

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



RE APPLICATION OF: Ki-Ho Baik et al.

SERIAL NO.: 10/817,140

RCE FILED: October 25, 2007

FOR: METHOD OF IMPROVING THE UNIFORMITY OF
A PATTERNED RESIST ON A PHOTOMASK

§ GROUP ART UNIT: 1756

§ (In parent case)

§

§ EXAMINER: B.L. Raymond

§ (In parent case)

§

§

§ Attorney Docket No.:

§ AM-8893 Y1

Date: October 25, 2007

PETITION IN SUPPORT OF
DECLARATION OF PRIOR INVENTION UNDER 37 CFR § 1.131

**Director Technology Center 1700
or Primary Examiner Group Art Unit 1756
P.O. Box 1450
Alexandria, VA 22313-1450**

Sir:

1. This Petition accompanies a Request for Continued Examination Under 37 C.F.R. § 1.114.

The Request for Continued Examination is being made to permit applicants to place the application in better condition for appeal.

CERTIFICATE OF MAILING UNDER 37 CFR 1.10

I hereby certify that this paper and any documents said to accompany this paper are being deposited with the U.S. Postal Service on the date shown below with sufficient postage as U.S. EXPRESS MAIL NO. EB 450583835 US in an envelope addressed to : Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: October 25, 2007


Shirley L. Church, Reg. No.31,858

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2. This Petition is in support of the Declaration under 37 CFR § 1.131 which accompanied Response "B", which was made in reply to the Office Action mailed July 25, 2007. Examiner Raymond (Examiner of the parent application to the present RCE) informed applicants' attorney, in a telephone conversation, that the Declaration was not acceptable, because it was not signed by all of the inventors, and because no Petition requesting acceptance of the Declaration without the presence of signatures by all of the inventors accompanied the Declaration.

3. Applicants' attorney explained to the Examiner that the Declaration was supported by a copy of the "Invention Alert" submitted by the inventors to their employer. The Invention Alert was signed by all of the inventors, and showed a date prior to the critical date with respect to the reference at issue. Further, applicants' attorney mentioned that the Response "B" which accompanied the Declaration explained that the ETEC Division of Applied Materials, Inc. which had employed the inventors had been disbanded, and that none of the inventors were currently employed by Applied Materials, Inc. Employer, Applied Materials, Inc., furnished past known addresses for the previous employees, but only three of these employees could be located by applicants' attorney. The signatures of the three inventors are present on the Declaration Under 37 CFR § 1.131 which was previously submitted, and which is presently being re-submitted with this Petition.

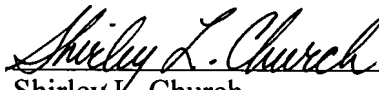
4. The parent application to the present RCE application is under final rejection. Applicants' attorney recognized that it was unlikely that a Petition would be considered in time to permit a timely appeal. Further, applicants had very good arguments as to why the reference which was the subject of the Declaration Under 37 CFR § 1.131 was distinguishable art from the present invention. Applicants' attorney was hopeful that after a telephone interview with the Examiner, the application could be allowed without the need to file an RCE which would provide time for consideration of a Petition.

5. On October 23, 2007, the Examiner contacted applicants' attorney to inform her that after final consideration, the Examiner was not willing to allow the application. Applicants' attorney is of the opinion that it will be necessary to appeal the rejection of the application to the Board of Patent Appeals & Interferences. Applicants would therefore like to have the reference which is the subject of the Declaration Under 37 CFR § 1.131 removed from consideration, and are submitting this petition so that the Declaration will be accepted despite the absence of the signatures of a portion of the inventors. As was discussed above, the Declaration is supported by an evidentiary document signed by all of the inventors which shows a date of invention prior to the critical date.

6. In view of the above, the Director Technology Center 1700 or a Primary Examiner of Group Art Unit 1756 is respectfully requested to grant the present Petition and to permit the acceptance of applicants' Declaration Under 37 CFR § 1.131.

7. This Petition is accompanied by the fee required under 37 CFR § 1.17(f).

Respectfully submitted,

A handwritten signature in cursive script, reading "Shirley L. Church", is written over a horizontal line.

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